



BUILDING CODES COMMITTEE MEETING

MONDAY, SEPTEMBER 14, 2020 | 6 PM

4th committee meeting

The Committee will meet in the Mauldin City Hall at 5 East Butler Road in the 2nd Floor Conference Room at 6 p.m.

Please note that members of the public may attend this meeting in-person, but are encouraged to participate remotely. The meeting will be available remotely through Webex. Please visit the City's website at <https://cityofmauldin.org/your-government/meeting-minutes-agendas/> to access the meeting via audio and videoconferencing. You may also email comments about specific items on the agenda to City Clerk Cindy Miller at cmiller@mauldincitysc.com. Comments emailed about specific agenda items prior to 6:00 p.m. on Monday, September 14, 2020 will be read during the Public Comment segment of the meeting.



AGENDA

1. Call to Order

2. Public Comment

3. Reading and Approval of Minutes

- a. Building Codes Committee Meeting: August 3, 2020 {Pages 2-3}

4. Reports or Communications from City Officers

- a. Department Reports

5. Unfinished Business

- a. An ordinance to establish the standards for the placement of small wireless facilities in covered areas in the City of Mauldin, South Carolina; and for other purposes {Pages 4-21}

- b. Appointments to boards and commissions {Pages 22-35}

6. New Business

- a. None

7. Public Comment

8. Committee Concerns

9. Adjourn



Minutes
Building Codes Committee Meeting
August 3, 2020
6:00 p.m.
1st committee meeting

Meeting Location: City Hall

Committee Members: were Chairwoman Diane Kuzniar, Committee members Taft Matney and Dale Black. David Dyrhaug, Business and Development Services Director and Brandon Madden, City Administrator were also present.

1. Call to Order- Chairwoman Kuzniar

2. Public Comment- None

3. Reading and Approval of Minutes

a. Building Codes Committee Meeting: July 6, 2020

Action: Councilman Matney made a motion to approve the minutes with Councilman Black seconding.

Vote: The vote was unanimous (3-0).

4. Reports or Communications from City Officers

a. Department Reports

Mr. Dyrhaug reported the department's budget looks good.

5. Unfinished Business

a. None

6. New Business

a. **An ordinance to provide for the annexation of property owned by Access 100, LLC, and located along Old Laurens Road by one hundred percent petition method; and to establish a zoning classification of I-1, Industrial, for said property**

The City of Mauldin has received a signed petition requesting the annexation of a tract of land pursuant to South Carolina Code of Laws Section 5-3-150. This petition includes approximately 0.45 acres owned by Access 100, LLC, and is located along Old Laurens Road.

Building Codes Committee Meeting



The applicant has requested that this tract be zoned I-1, Industrial, upon annexation into the City of Mauldin. The applicant has already begun construction of the Access Point Business Park on 53 acres adjacent to this site. The applicant recently acquired this 0.45-acre tract to add to this existing project site. There is no fiscal impact to the City except it will aid the business park.

Action: Councilman Matney made a motion to send this to council with a recommendation of approval. Councilman Black asked if this was near I-385. David Dyrhaug answered yes.

Vote: Councilman Black seconded the motion and the vote was unanimous (3-0).

7. Public Comment- None

8. Committee Concerns- None

9. Adjourn- Chairwoman Kuzniar adjourned the meeting.

Respectfully Submitted,
Cindy Miller
Municipal Clerk



BUILDING CODES COMMITTEE AGENDA ITEM

MEETING DATE: September 14, 2020

AGENDA ITEM: 5a

TO: Building Codes Committee

FROM: Business & Development Services Director, David C. Dyrhaug

SUBJECT: Small Cell Wireless Facilities Ordinance

BACKGROUND

The next wave of communications technology consisting of 5G technology utilizes higher frequencies with the capability to accommodate significantly higher data needs than current 4G/LTE technologies. Because high frequency waves have a harder time traveling over distance and through objects, the 5G network will be built on small cell site technology with antennas as close as 500 feet apart.

In its effort to help facilitate expansion of 5G technology, the Federal Communications Commission (FCC) has expressed favor for suing public rights-of-way as opposed to private property for the installation of the required equipment. Commissioners do not believe that enough private properties can be leased fast enough to allow this technology to be rolled out. On September 26, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order, FCC 18133, titled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” (the Order).

Municipal officials are tasked with the challenge to balance the importance of the technology to the economy and quality of life with the aesthetic impact of the technology on the rights-of-way.

MAULDIN DRAFT ORDINANCE

In February of this year, City staff presented a draft ordinance to permit the installation of small cell wireless facilities within the public right-of-way. At that time, this draft ordinance was shared with wireless providers including AT&T and Verizon, who each provided comments about the draft ordinance. Generally, each found some sections of the draft ordinance overly restrictive and even prohibitive.

In June, the City Council held a workshop with representatives from AT&T and Verizon who were able to present more information about their plans for expansion within the City of Mauldin.

Since that time, City staff has re-examined the draft ordinance and made appropriate revisions in line with comments from wireless providers as well as to make the ordinance a little simpler. These revisions are summarized as follows:

1. **Section 44-1.** The background information on the FCC order was updated for clarity.



2. **Section 44-2.** At the request of one of the wireless providers, a couple of clarifying statements were added to the section regarding applicability.
3. **Section 44-3.** The definition for small wireless facility was updated.
4. **Section 44-4.** At the request of both wireless providers, a few of the sections regarding procedures were updated for clarity.
5. **Section 44-5.** The installations guidelines were overhauled. The section was simplified to permit and regulate two types of small wireless facility installations: (1) placement on existing poles and (2) installation of new poles.

When placed on existing poles, the configuration should primarily be top-mounted. Side-mounted configurations will only be permissible if top-mounted installations are not possible. New poles should only be installed when there is not an opportunity to install small wireless facilities on existing poles.

Accessory equipment should generally be installed (1) in an underground equipment vault, (2) entirely concealed inside the pole, or (3) within a cabinet integrated in the base of the pole. If these three opportunities are not possible, then accessory equipment would be permitted to be mounted on the pole. Separate ground-mounted equipment is not permissible except where the equipment is appropriately disguised as public art or street furniture as accepted by the City Council.

SUMMARY OF THE MAULDIN DRAFT ORDINANCE

The revised Mauldin draft ordinance for small wireless facilities can be summarized as follows.

To help encourage wireless infrastructure investment within the City of Mauldin in a context-sensitive manner, this ordinance regulates and permits the installation of small wireless facilities in the public right-of-way within the City. Features of this ordinance include:

1. **Background information.** A summary of the background of the FCC order to accelerate wireless broadband deployment.
2. **Permit required.** A permit will be required for the placement, modification, or replacement of any new small wireless facility within the City. A provider can apply for up to 20 facilities in a single application.
3. **Permit fee.** Unless exempted by a franchise agreement, a permit fee shall accompany each permit application for a small wireless facility. The fee shall be \$100 per each facility for the first five facilities and \$50 per each facility in excess of five up to a maximum of 20 facilities.
4. **Fee for attachment to City-owned poles.** An annual fee of \$250 shall be levied for each small wireless facility attached to a City-owned pole.
5. **Review timeframes.** The City acknowledges the “shot clock” deadlines provided by the FCC order and will take action on each application according to the City’s standard review timeframes (currently 1-2 weeks).
6. **Installation types.** This ordinance regulates two types of small wireless facility installations: (1) placement on an existing pole, and (2) the installation of a new pole.
7. **Placement on existing poles.** When installed on existing poles, the configuration should generally consist of the antenna housed within a cylindrical shroud that is top-mounted to the pole and painted to blend with or match the color of the pole. Side-mounted installations of the small wireless facility is only allowed if a top-mounted configuration is not possible.
8. **Installation of new poles.** New poles are only permissible if there is not an opportunity to install a small wireless facility on an existing pole. New poles are to be constructed of metal, cylindrical



in shape, and shall match the color and height of other nearby poles. In the absence of existing metal poles, the color shall be black powder coated finish.

9. **Accessory equipment.** Accessory equipment should generally be installed (1) in an underground equipment vault, (2) entirely concealed inside the pole, or (3) within a cabinet integrated in the base of the pole. If these three opportunities are not possible, then accessory equipment would be permitted to be mounted on the pole. Separate ground-mounted equipment is not permissible except where the equipment is appropriately disguised as public art or street furniture as accepted by the City Council.
10. **Additional standards.** Additional standards pertaining to lighting, noise, and signage apply.

WIRELESS PROVIDER COMMENTS

This draft ordinance has been sent to wireless providers, including AT&T and Verizon, for their review and input. As of the time of this report, no comments have been provided by Verizon. AT&T has provided comments on the following items:

1. They recommended updated background language that reflects modifications provided by the Ninth Circuit on appeal. **This revision has since been included in the attached ordinance.**
2. Although they plan to incorporate reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening, they would like the ability to request a waiver from these treatments when the location does not warrant these treatments or the expense becomes excessive. **Language has been added to Section 44-5(A) of the attached ordinance that provides an opportunity for the City Council to approve a waiver on a case-by-case basis.**
3. Where laws allow the installation of wireless backhaul facilities in the right-of-way, they have recommended that this not be prohibited. **Section 44-6(F) has since been revised accordingly in the attached ordinance.**
4. They have requested that the maximum height of the antenna enclosure mounted on top of an existing pole be increased from 6 feet to 10 feet. **The ordinance has not yet been revised for this comment.**
5. They have requested that maximum diameter of the antenna enclosure mounted on top of an existing pole be increased from 1.25 times the diameter of the pole to 1.75 times the diameter of the pole. **The ordinance has not yet been revised for this comment.**
6. They have requested that the maximum protrusion of an antenna enclosure mounted on the side of an existing pole be increased from 24 inches to 30 inches from the face of the pole. **The ordinance has not yet been revised for this comment.**
7. They have requested that the maximum width of the antenna enclosure mounted on the side of an existing pole be increased from 1.25 times the diameter of the pole to 1.75 times the diameter of the pole. **The ordinance has not yet been revised for this comment.**

REQUEST

Consider forwarding the revised draft ordinance for small wireless facilities to City Council for consideration.

TIMELINE

On January 7, 2020, the Building Codes Committee forwarded this matter to City Council for consideration. The Building Codes Committee also requested the City Attorney's legal opinion on this ordinance by the City Council meeting.

Building Codes Committee Meeting



On January 21, 2020, the City Council sent this matter back to Committee to allow sufficient time to review the Attorney's revisions to the proposed ordinance.

On February 10, 2020, the Building Codes Committee reviewed the Attorney's revisions. Representatives from AT&T attended this meeting and commented about the draft ordinance requesting significant revisions.

On May 4, 2020, the Building Codes Committee reviewed possible directions to consider for the draft ordinance.

On June 12, 2020, the City Council conducted a workshop with representatives from AT&T and Verizon who were able to present information about their planned expansion within the City of Mauldin.

ATTACHMENTS

Revised draft ordinance prepared by City staff



ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH THE STANDARDS FOR THE PLACEMENT OF SMALL WIRELESS FACILITIES IN COVERED AREAS IN THE CITY OF MAULDIN, SOUTH CAROLINA; AND FOR OTHER PURPOSES.

WHEREAS, the City of Mauldin (“City”) encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of Small Wireless Facilities while managing Public Rights-of-Way in a manner that promotes the interests of the public health, safety and welfare; and,

WHEREAS, the City recognizes that Small Wireless Facilities including facilities commonly referred to as small cell and distributed antenna systems are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to residences, businesses, and schools within the City; and,

WHEREAS, the City recognizes that Small Wireless Facilities together with high capacity transport medium such as fiber optic cabling may be effectively deployed in Public Rights-of-Way; and,

WHEREAS, this Ordinance is intended to grant municipal consent to use of Rights-of-Way and establish a standard application process to streamline the issuance of necessary permits in a manner that is not a barrier to competition, and does not unnecessarily delay the implementation and installation of Small Wireless Facilities,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MAULDIN, SOUTH CAROLINA, that the Code of Ordinances City of Mauldin, South Carolina, is hereby amended to add Chapter 44 entitled “SMALL WIRELESS FACILITIES WITHIN THE RIGHT-OF-WAY,” to read as follows:

44-1. Intent.

A. Background

The next wave of communications technology consisting of 5G technology utilizes higher frequencies with the capability to accommodate significantly higher data needs than current 4G/LTE technologies. The physical limits of the higher frequencies require that the transmitters be installed with much closer spacing than associated with existing 4G/LTE technology.

Relating to the expansion of broadband services, on September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Third Report and Order, FCC 18-133, titled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” (the Order). In this document, the FCC issues guidance and adopts rules to streamline the wireless infrastructure siting review process to



facilitate the deployment of next-generation wireless facilities. Specifically, in the Declaratory Ruling, the Commission identifies specific fee levels for the deployment of small cell wireless facilities. In the Order, the Commission addresses the “shot clocks” governing the review of wireless infrastructure deployments and establishes two new shot clocks for small cell wireless facilities.

Among other things, the Order [\(as modified by the Ninth Circuit on appeal\)](#) provides that municipal aesthetic requirements will not be preempted if they are reasonable and published in advance. The Order also prohibits local government requirements (including aesthetic requirements) that materially inhibit wireless providers from filling coverage gaps, densifying their networks, introducing new service, or otherwise improving service capabilities.

B. Intent

The intent of this ordinance is to accommodate the installation of small cell wireless facilities within the public rights-of-way within the City of Mauldin provided that installations are completed in a context-sensitive manner with regard to appropriate standards for aesthetics, location, spacing, accommodation of multiple providers at each location, safety, noise, and equitable allocation of space.

Further, it is the intent of this ordinance to establish procedures and standards for the consideration, permitting, siting, construction, installation, collocation, modification, operation, regulation and removal of small cell wireless facilities in the public rights-of-way within the City of Mauldin. These procedures and standards are intended to comply with, and not conflict with or preempt, all existing and applicable state and federal laws, and all FCC rules and regulations to interpret and implement applicable federal statutes.

44-2. Applicability.

Subject to applicable state and federal law and approval of an application under this Ordinance, an operator may locate and/or collocate a small cell wireless facility and construct, maintain, modify, operate, or replace utility poles and wireless support structures in, along, across, upon, and under public rights-of-way within the City of Mauldin. In accord with Article VIII, Section 15 of the State Constitution and related municipal code and ordinance provisions, the City consents to the use of public rights-of-way by permit holders acting in compliance with this Ordinance.

An operator shall comply with this Ordinance and any rules, regulations, and design guidelines adopted by the City that are consistent with this Ordinance for the installation and/or collocation of a small cell wireless facility and construction, maintenance, modification, operation, or replacement of utility poles and wireless support structures in, along, across, upon, and under the right-of-way within the City of Mauldin, unless otherwise prohibited by state or federal law.



Except to the extent set forth in this Ordinance or to the extent necessary to comply with applicable state or federal law, nothing in this Ordinance shall preclude the City from applying generally acceptable health, safety, and welfare regulations when acting on an application for a permit for a small cell wireless facility in the right-of-way within the City of Mauldin.

44-3. Definitions.

Antenna means communication equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes means uniform building, energy, electrical, plumbing, mechanical, gas, and fire codes in Title 6, Chapter 9, of the South Carolina Code of Laws, local amendments to those codes authorized by state law, and local codes or ordinances which impose requirements defined in this ordinance including objective design and concealment standards to regulate location, context, material, color, stealth, and concealment standards on a uniform and nondiscriminatory basis.

Applicant means any person who submits an application to the City of Mauldin and is a wireless services provider or a wireless infrastructure provider.

Application means a request submitted by an applicant for a permit to (i) install small cell wireless facilities; or, (ii) construct, install, maintain, operate, replace or modify a utility pole or similar support structure relating to small cell wireless facilities.

City-owned pole means a utility pole or similar structure owned or operated by the City of Mauldin.

Collocate means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to an existing wireless support structure or utility pole within the jurisdiction of the City of Mauldin.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

Right-of-way means that area on, below, or above a public roadway, highway, street, sidewalk, alley dedicated to, managed or controlled by the City of Mauldin, Greenville County, or the State of South Carolina.

Small wireless facility or ***small cell wireless facility*** or ***small cell facility*** or ***SWF*** means equipment at a fixed location that enables wireless services at higher transmission speeds but lower ranges between user equipment and a communications network. “Small” refers to the small coverage area, not the physical size of the equipment. This equipment includes radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

Utility pole means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control devices, or a similar function regardless of ownership, including City-owned poles.



Wireless infrastructure provider means any person, including a person authorized to provide telecommunications services in the State, that builds, installs or maintains utility poles, wireless communication transmission equipment, small wireless facilities or wireless support structures.

Wireless services mean any services provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, delivered to the public using small wireless facilities.

Wireless services provider means a person who provides wireless services.

Wireless support structure or ***support structure*** or ***support structure pole*** means a freestanding structure, such as a monopole, or other existing or proposed structure intended to support small wireless facilities.

44-4. Procedures.

A. Application

In accordance with federal and state law and City Code, an operator must apply to the City to locate a new small cell wireless facility and/or collocate any portion of a small cell wireless facility on an existing utility pole or wireless support structure or to construct, maintain, modify, operate, or replace wireless support structures in, along, across, upon, and under the public rights-of-way within the City of Mauldin. Except as otherwise provided in this Ordinance, anyone seeking to perform any of these actions shall first duly file a written application with the City, in accordance with the requirements in this Ordinance.

All small cell wireless facility applications filed pursuant to this Ordinance shall be on a form, paper or electronic, as required by the City. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page or section of such materials accordingly, and the City shall endeavor to protect materials so designated from public disclosure to the fullest extent permitted by state law.

Unless otherwise required by state or federal law, all applicants shall submit to the City the materials and information outlined below for the application to be considered complete:

- (1) The applicant’s name, address, telephone number and e-mail address;
- (2) Facility owner’s name, address, telephone number and e-mail address, if different from the applicant;
- (3) The location of each small cell wireless facility installation;
- (4) Intended facility use: owner operated or owner leased capacity;
- (5) The names, addresses, telephone numbers, and e-mail addresses, of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;



- (6) A general description of the proposed scope of work for the location or collocation of the small cell wireless facility;
- (7) A detailed drawing that depicts the installation location and plans that illustrate the facility and equipment to be installed;
- (8) Evidence that the facility has been properly engineered;
- (9) Verification of payment of the annual municipal consent or administrative fee for telecommunications companies to use public rights-of-way pursuant to S.C. Code § 58-9-2230 and acknowledgement of its continuing obligation in accordance with those statutes;
- (10) Verification of municipal business license, if applicable;
- (11) Evidence that the applicant is duly authorized to do business in South Carolina;
- (12) Evidence the applicant complies with all applicable FCC regulations;
- (13) A copy of an approved South Carolina Department of Transportation (SCDOT) encroachment permit and all documents required by SCDOT as part of the encroachment permit application, if the proposed location is within a SCDOT right-of-way; and
- (14) A statement that the applicant has a lease, attachment agreement or other authorization from the owner of the utility pole or structure proposed for collocation.

B. Consolidated Application for Multiple Small Cell Wireless Facilities

Applicants seeking to construct, modify, collocate, or replace more than one small cell wireless facility, may file, at the applicant's discretion, a consolidated application for up to 20 requests in a single application and receive a single permit for the construction, modification, collocation, or replacement of the small cell wireless facility subject to the following:

- (1) This single application may be filed for multiple small cell wireless facilities only if they are of substantially the same type.
- (2) The City will separately address small cell wireless facilities for which incomplete information has been received or which are denied and it will grant a permit for any and all sites in a single application that it does not deny subject to the requirements of this Ordinance.
- (3) In the case of a consolidated application, the fees shall be cumulative.

C. Fees and Costs

- (1) *Application processing costs.* Unless otherwise provided by law, including without limitation S.C. Code § 58-9-2230, all applications for permits pursuant to this



Ordinance shall be accompanied by an application processing cost of \$100.00. Application costs for small cell wireless facilities applied for in a consolidated application shall be \$100.00 each for the first 5 small wireless facilities and \$50.00 each for each additional small wireless facility.

For clarity, any applicant that pays either a franchise, consent fee, or administrative fee pursuant to the requirements of S.C. Code § 58-9-2230 shall not be required to pay any application or permit fees or any other fee assessed on a telecommunications provider for its occupation of or work within the right-of-way.

- (2) *Annual rate for attachments to City-owned poles.* The annual rate to place a small cell wireless facility on a City-owned pole shall be \$250.00 for each small wireless facility per year. The City reserves the right to require a pole attachment to further define the terms and conditions of attachments to City-owned poles.

The applicant shall reimburse the City for expenses for any reasonable make-ready work. The City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested small cell wireless facility, including pole replacement if necessary, within 60 days after a receipt of a completed request. Make-ready work including any pole replacement shall be completed within 60 days of written acceptance of the good faith estimate by the wireless services provider or the wireless infrastructure provider.

- (3) *Lawful fees and taxes.* In addition to the applicable fees as specified above, every permit shall include as a condition the applicant's agreement to pay such lawful franchise fees, business license taxes, administrative fees and consent fees as are permitted under applicable ad valorem taxes, service fees, sales taxes, or other taxes and fees as may now or hereafter be lawfully imposed on other businesses within the City.
- (4) *Cease payment following removal.* A wireless services provider is authorized to remove its facilities at any time from a City-owned pole and cease paying the annual rate to the City as of the next due date for payment following the removal, provided, however, the provider pay its pro-rata share of the remaining term and expenses, if any.
- (5) *Tax liabilities and assessments not applicable.* Placement of a small cell wireless facility in the public rights-of-way or attachment of any portion of a small cell wireless facility to a wireless support structure and any fees associated therewith shall not subject the City to any state or local tax liabilities or assessments.

D. Application Review

- (1) *Application completeness.* Shortly after receiving an application, the City will determine and notify the applicant whether the application is complete; or if an



application is incomplete, the City will specifically identify the missing information.

- (2) *Application review.* Absent an arrangement to the contrary between the City and the applicant that is confirmed by e-mail or other writing, the City shall grant or deny an application according to its typical review timeframes.
- (3) *Application denial.* If an application is denied, the City will provide in writing its reasons for denying the request, including, if applicable, specific references to any applicable law supporting the denial.
- (4) *Application resubmittal.* Notwithstanding an initial denial, the applicant may cure the deficiencies identified by the City and resubmit the application to the City for further review.
- (5) *Review timeframes.* The City recognizes the “shot clock” deadlines provided by FCC 18-133. Namely, this Order offers a 60-day shot clock for reviewing the placement of small cell wireless facilities on existing poles and a 90-day shot clock for reviewing the installation of new poles for small cell wireless facilities, among other shot clock guidelines. The City’s typical review timeframes are much shorter than these FCC shot clock guidelines and the City will make every effort not to exceed the FCC shot clock guidelines, notwithstanding any reasonable delays due to unforeseen circumstances.
- (6) *Removal of a small cell wireless facility.* The City shall act on requests to remove wireless support structures associated with a small cell wireless facility from the public rights-of-way in accordance with its typical review timeframes for the general right-of-way permit required for this activity.

E. Routine Maintenance

An application shall not be required for routine maintenance.

44-5. Installation Guidelines

The following standards shall apply to all small cell wireless facilities within the public right-of-way throughout the City of Mauldin, unless otherwise noted.

A. Installation Types

Two types of installation of small cell wireless facilities are permissible within the public right-of-way within the City of Mauldin: (1) placement on existing poles and (2) installation of new poles. Existing poles may include utility poles, light poles, poles used for traffic control devices, or similar structures. In order to minimize clutter and congestion of structures within the public right-of-way, applicants shall consider placing facilities on existing poles prior to installing any new poles or similar support structures.

In the installation of small cell wireless facilities, the additional use of reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening may be required to avoid significant negative impacts on the character and visual aesthetics of



the area. However, such requirements may be waived by the City Council when the location of the small cell wireless facility does not warrant stealth or concealment treatments or imposes an excessive expense. The request for a waiver will be reviewed by the appropriate standing committee of City Council at their next scheduled meeting after a request has been received. The standing committee will consider forwarding the request to City Council for their review.

B. Placement on Existing Poles

Antennas associated with small cell wireless facilities may be placed on an existing pole, provided the antenna is placed in as unobtrusive manner as technically feasible and appropriately concealed. To the extent technically feasible, antenna shall be placed as follows.

- (1) *Enclosed shroud.* Antennas shall be completely housed within a shroud, cantenna, or similar enclosure. The enclosure shall generally be cylindrical or curved in shape.
- (2) *Maximum size.* The enclosure shall not exceed 3 cubic feet in volume and shall not exceed a height of 6 feet above the top of the existing pole.
- (3) *Color.* The color of the enclosure shall reasonably blend with the color of the support structure pole and should match the color where feasible.
- (4) *Top-mounted specifications.* Unless otherwise required by the owner of the pole, the enclosure shall be top mounted to the top of the support structure pole, aligned with the centerline of the structure and flush to the top of the support structure pole.

The circumference of the enclosure should generally match the circumference of the support structure pole. If the circumference of the enclosure differs from the circumference of the support structure pole, the enclosure should be tapered to meet the top of the pole. In no case shall the diameter of the enclosure be wider than 1.25 times the diameter of the top of the pole.

- (5) *Side-mounted specifications.* Where the antenna cannot be placed at the top of the pole, it may be mounted on the side of the pole. The enclosure shall extend perpendicular from the pole and parallel to the adjacent roadway, positioned opposite to the direction of oncoming vehicular traffic in the closest travel lane.

The enclosure shall provide a minimum clearance of 10 feet above the established grade and shall not protrude more than 24 inches beyond the face of the pole to the outermost portion of the enclosure.

The enclosure shall be installed as flush to the pole as possible. Metal flaps or “wings” shall extend from the enclosure to the pole to conceal any gap between the enclosure and the pole. The width of the enclosure should generally match the diameter of the pole to which it is attached. In no case shall the width of the enclosure be wider than 1.25 times the diameter of the pole.



Figure 1 - Example of an antenna enclosure with a curved shape side-mounted to a pole

C. Installation of New Poles

New poles to support small cell wireless facilities should generally be installed only when the it is not technically feasible or there is no available opportunity for the applicant to use an existing pole. New poles may be installed as follows.

- (1) *Design.* New poles shall be constructed of metal and shall be cylindrical in shape. The design of the pole shall accommodate the installation of accessory equipment inside the pole at its base, or otherwise concealed inside the pole.
- (2) *Maximum size.* New poles shall coordinate with the height of existing poles in the same corridor to the maximum extent practicable. If a compatible height cannot be clearly determined, then a maximum pole height of 30 feet above grade shall apply. The diameter of the pole shall be consistent with existing poles in the same corridor.
- (3) *Color.* New poles shall match the color of existing metal poles in the same corridor to the maximum extent practicable. In the absence of existing metal poles, the color shall be a black powder coated finish.
- (4) *Placement.* New poles shall be located in alignment with existing trees, utility poles, street lights, and similar objects, and should be spaced evenly between these objects.

New poles should be aligned as close as practicable with adjacent side property lines or with shared wall locations in adjacent multi-tenant buildings. In no case shall a new pole be placed directly in front of an adjacent building entrance or storefront. Special care should be taken to avoid placing new poles in conflict with business signs.

The placement of new poles shall not obstruct or be hazardous to pedestrians, cyclists, or motorists. New poles shall not be placed in conflict with required intersection sight distance triangles.



Additionally, new poles shall be placed as follows.

- (a) New poles shall be set back at least 20 feet from driveway aprons.
- (b) New poles shall be set back at least 15 feet from any tree to prevent disturbance within the critical root zone of the tree.
- (c) New poles shall be set back at least 2 feet from any sidewalk edge or other walkway.
- (d) New poles shall be set back at least 4 feet from any road pavement edge.
- (e) New poles shall be set back at least 8 feet from any fire hydrant.

D. Accessory Equipment

Accessory equipment should generally be installed in an underground equipment vault, entirely concealed inside the pole, or placed within a cabinet integrated in the base of the pole. Equipment cabinets integrated in the base of the pole shall be cylindrical in shape and should match the color of the pole where feasible. The integrated cabinet shall not exceed the diameter of the pole by more than 18 inches, and the transition between the integrated cabinet and the pole shall be tapered.

Accessory equipment should not be attached to the exterior of the pole or placed in a separate ground-mounted cabinet unless no other placement is feasible or less intrusive. When equipment must be attached to the exterior of the pole or placed in a ground-mounted cabinet, it shall be installed as follows.

- (1) *Pole-mounted equipment.* Pole-mounted equipment shall be mounted in as unobtrusive a manner as technically feasible and incorporate concealment elements. Equipment should be flush-mounted to the pole, with all cabling neat and concealed. The color of the equipment, or the color of any cabinets or similar enclosures in which it is concealed, shall reasonably blend with the color of the support structure pole and should match the color where feasible.
- (2) *Ground-mounted equipment.* Separate ground-mounted equipment is generally not permissible except where the equipment is appropriately disguised as public art or street furniture as accepted by the City Council.

44-6. General Standards

A. City-Owned Support Structures

- (1) *Agreement.* The City, in its proprietary capacity, retains sole and absolute discretion over whether and on what terms it may allow small cell facilities on its structures. Applicants shall provide a valid and fully executed agreement to use any City-owned support structure.
- (2) *Power supply.* Small cell facilities located on City-owned structures shall not use the same power or communication source providing power and/or communication for the existing facility original to the purposes of the structure. The independent



power source must be contained within a separate conduit inside the support structure. The applicant shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.

- (3) *Power disconnect.* The City reserves the right to disconnect power to the radio when working on the structure. The applicant shall provide a disconnect so the City has the ability to easily shut off radio signals and power while working on the structure.

B. Removal of Small Cell Facilities and Wireless Support Structures

- (1) *General area.* Applicants shall restore and repair all areas of the right-of-way impacted by the small cell facilities and/or wireless support structure installation and/or removal to equal or better condition.
- (2) *City-owned structures.* All City-owned support structures shall be returned to an equal or better state, upon removal of small cell facilities. All mounting hardware and equipment shall be removed from the site. All holes left in the pole shall be neatly sealed from any moisture intrusion and painted to match the pole.
- (3) *Repairs.* If the applicant fails to make repairs required by the City within 30 days after written notice, unless the applicant and the City agree in writing to a longer time period, the City may undertake those repairs and charge the applicant the reasonable and documented cost of the repairs. The City may maintain an action to recover the costs of the repairs.

C. Lighting

Lighting associated with small cell facilities is prohibited. Any internal lights associated with electronic equipment shall be shielded from public view. This provision shall not prohibit the installation of street lights on poles.

D. Noise

Noise produced by small cell facilities shall not exceed 5dBA above ambient sound. Other noise regulations may apply.

E. Labels and Signage

- (1) *Owner identification.* A maximum 4-inch by 6-inch plate or label with the Carrier's name, location, identifying information, and emergency telephone number shall be permanently affixed to the small cell equipment enclosure on the side of the enclosure opposite the direction of vehicular traffic of the adjacent roadway. ID labels shall use background colors that match the color of the enclosure to which the label is affixed.
- (2) *RF warning sticker.* A maximum 4-inch by 6-inch sticker shall be affixed to the small cell facility on the side of the facility opposite the direction of the adjacent roadway as may be required by government or utility regulations. Stickers shall use background colors that match the color of the facility to which the label is affixed.



- (3) *Signage.* Signage is prohibited on all small cell facilities and wireless support structures, including stickers, logos, text, and other non-essential graphics and information other than the owner identification unless required by FCC.

F. Prohibited Wireless Facilities

Microwave, macro towers, and other wireless backhaul facilities are not permitted within the right-of-way, except where permitted by franchise agreement [or applicable law](#).

G. Engineering

- (1) All small cell facilities and wireless support structures can have a significant structural, wind and other loading impact. All small cell facilities attachments and new wireless support structures shall be properly engineered to assure safety.
- (2) All structural components of small cell facilities and wireless support structures shall be designed for a minimum of 115 MPH wind velocity in accordance with applicable standards.

H. Health and Safety

All small cell wireless facilities shall comply with all applicable FCC regulations and shall provide certification of such compliance.

44-7. Effect of Permit

A. Authority Granted

No Property Right or Other Interest Created. A permit from the City authorizes an applicant to undertake only certain activities in accordance with the Ordinance, and does not create a property right or grant any authority whatsoever to the applicant to impinge upon the rights of others who may already have an interest in the covered area.

B. Duration

Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than 12 months unless both City and applicant agree to a reasonable extension and all required fees are paid for the term regardless of construction. The inability of the applicant to obtain electrical power or backhaul transport services to serve the wireless facility such that it is operational within the 12 months due to the action or inaction of third-party utility providers shall not result in the invalidity of the permit.

44-8. Removal, Relocation or Modification of a Small Wireless Facility in the ROW

A. Notice

Within 90 days following written notice from the City, an applicant shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small cell wireless facilities within the rights-of-way whenever the City, in its reasonable discretion, has determined that such removal, relocation, change



or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

B. Emergency Removal or Relocation of Facilities

The City retains the right to cut or move any small cell wireless facilities or support structure located within its rights-of-way as the City, in its reasonable discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the applicant and provide opportunity to move its own small cell wireless facilities or support structure prior to the City cutting or removing a small cell wireless facility and the City shall notify the applicant after cutting or removing a wireless facility.

C. Abandonment of Facilities

Upon abandonment of a small cell wireless facility within the City rights-of-way, the applicant shall notify the City within 90 days of such abandonment. Following receipt of such notice the City may direct the applicant to remove all or any portion of the small cell wireless facility if the City, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

D. Abandonment by Inaction

At any point when an applicant fails to pay any required fee, or annual payment to the City, and fails to respond within 60 days to a written inquiry from the City as to whether the applicant intends to continue to operate a small cell wireless facility, for whatever reason, the small cell wireless facility shall be deemed abandoned and the City may, at its sole option, remove all or any portion of the small cell wireless facility, or take other action as authorized by law, including recovery of actual costs incurred in removing the small cell wireless facility.

44-9. Severability

In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

44-10. Effective Date

This Ordinance shall be effective upon second reading.

This ordinance shall become effective upon and after its final passage.

Building Codes Committee Meeting



Passed on First Reading: _____

Passed on Second Reading _____

CITY OF MAULDIN, SOUTH CAROLINA

BY: _____

Terry Merritt, Mayor

ATTEST:

Cindy Miller, Municipal Clerk

APPROVED AS TO FORM:

John Duggan, City Attorney



BUILDING CODES COMMITTEE AGENDA ITEM

MEETING DATE: September 14, 2020

AGENDA ITEM: 5b

TO: Building Codes Committee

FROM: Business & Development Services Director, David C. Dyrhaug

SUBJECT: Vacancies on Boards and Commissions

Board of Appeals Vacancies

At its meeting on June 15, 2020, the City Council appointed volunteers to the Planning Commission and the Building and Zoning Board of Appeals. At that time, it was noted that the City had not yet received enough applications for the number of seats available on the Zoning Board of Appeals. As a result, there were still two open seats on the Zoning Board of Appeals after the June 15th City Council meeting.

Since that time, the City has received five new applications from volunteers interested in being appointed to the Building and Zoning Board of Appeals. The applicants include (in order of receipt):

- Scott Crosby
- Brian Patton
- Brian Sofield
- Samuel Neely
- Dorothy Foxx

Please note that even though Mr. Neely's application states that he is applying for the Planning Commission, he has since indicated that he would like his application to be considered for a seat on the Board of Appeals.

Planning Commission Vacancy

The City recently received the resignation of Michael King on the Planning Commission. Mr. King was appointed to the Planning Commission earlier this year to fill an open seat. Unfortunately, Mr. King's work schedule and obligations have since changed and he is no longer able to meet the obligations of the Planning Commission. The City has just recently begun advertising for this vacancy.

Request

The Committee has at least two options at its disposal. (1) The Committee may forward the applications for the Board of Appeals to City Council for consideration **or** (2) the Committee may elect to wait until next month and send the applications for the Board of Appeals and the Planning Commission together to City Council for simultaneous consideration.



ATTACHMENTS

Volunteer Applications